

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. § CRIMINAL NO. EP-24-CR-1735-KC
§
OMAR AGUIRRE MARCIAL, §
§
Defendant. §

**UNITED STATES OF AMERICA'S
BILL OF PARTICULARS FOR FORFEITURE OF PROPERTY**

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and files the following Bill of Particulars for Forfeiture of Property.

The Indictment (ECF No. 10), returned on August 14, 2024, gave notice that the United States seeks the criminal forfeiture of property pursuant to Title 21 U.S.C. §§ 853(a)(1) and (2), Title 18 U.S.C §§ 934(a)(1)(A) and (B), and 924(d)(1), as made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c) from Defendant OMAR AGUIRRE MARCIAL. Specifically, this Bill of Particulars seeks the criminal forfeiture of certain property, which is included herein from the Defendant, for the violations of Title 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)(viii), Title 18 U.S.C. §§ 922(g)(1), 922(g)(5)(A), 924(a)(8) and 924(c)(1)(A), and Title 18 U.S.C. §§ 933(a)(1), (a)(3) and (b) as follows:

NOTICE OF GOVERNMENT'S DEMAND FOR FORFEITURE
[See Fed. R. Crim. P. 32.2.]

I.

Drug Violation and Forfeiture Statutes

[Title 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)(viii),
subject to forfeiture pursuant to Title 21 U.S.C. §§ 853(a)(1) and (2)]

As a result of the foregoing criminal violations set forth in Counts One through Four of the Indictment, the United States gives notice to Defendant OMAR AGUIRRE MARCIAL of its intent to seek the forfeiture of the property described below upon conviction pursuant to FED. R. CRIM. P. 32.2 and Title 21 U.S.C. §§ 853(a)(1) and (2), which state:

Title 21 U.S.C. § 853. Criminal Forfeitures

(a) Property subject to criminal forfeiture

* * *

- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

II.

Firearms Violation and Forfeiture Statutes

[Title 18 U.S.C. §§ 922(g)(1), 922(g)(5)(A), 924(a)(8) and 924(c)(1)(A), subject to forfeiture pursuant to Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c)]

As a result of the foregoing criminal violations set forth in Counts Five through Seven of the Indictment, the United States of America gives notice to Defendant OMAR AGUIRRE MARCIAL of its intent to seek the forfeiture of the property described below upon conviction pursuant to FED. R. CRIM. P. 32.2 and Title 18 U.S.C. § 924(d)(1), as made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c). Section 924 states, in pertinent part, the following:

Title 18 U.S.C. § 924.

- (d)(1)** Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, shall be subject to seizure and forfeiture under the provisions of this chapter. . .

III.

Firearms Trafficking Violations and Forfeiture Statutes

[Title 18 U.S.C. §§ 933(a)(1), (a)(3) and (b), subject to forfeiture pursuant to Title 18 U.S.C §§ 934(a)(1)(A) and (B) & 924(d)(1), as made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c)]

As a result of the criminal violations set forth in Count Eight of the Indictment, the United States of America gives notice to Defendant OMAR AGUIRRE MARCIAL of its intent to seek the forfeiture of the property described below upon conviction and pursuant to FED. R. CRIM. P. 32.2, Title 18 U.S.C. §§ 934(a)(1)(A) and (B) & 924(d)(1), as made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c), which state:

Title 18 U.S.C. § 934. - Forfeiture and Fines

(a) Forfeiture.

- (1) In General.— Any person convicted of a violation of section 932 or 933 shall forfeit to the United States, irrespective of any provision of State law—
 - (A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and
 - (B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation, except that for any forfeiture of any firearm or ammunition pursuant to this section, section 924(d) shall apply.

Title 18 U.S.C. § 924.

* * *

- (d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, shall be subject to seizure and forfeiture under the provisions of this chapter. . .

This Notice of Demand for Forfeiture includes but is not limited to the property described below in Paragraph IV and money judgment described in Paragraph V.

**IV.
Property**

1. SCCY CPX-2 9mm caliber pistol, serial number 865032;
2. Any and all property, real or personal, involved in or used in the commission of the criminal offense; and
3. Any and all firearms, ammunition, and/or accessories involved in or used in the commission of the criminal offenses.

V.
Money Judgment

A sum of money that represents the amount of proceeds obtained, directly or indirectly, property involved in such offense, or traceable to such property as a result of the violations set forth in Counts One through Four and Eight which Defendant OMAR AGUIRRE MARCIAL is solely liable.

Substitute Assets

If any of the above-described forfeitable property, as a result of any act or omission of the Defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States to seek forfeiture, pursuant to Title 21 U.S.C. § 853(p), as incorporated by Title 28 U.S.C. § 2461(c), of any other property of said Defendant up to the value of the forfeitable property.

Respectfully submitted,

JAIME ESPARZA
UNITED STATES ATTORNEY

By: /s/
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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2024, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant:

Manuel Acosta-Rivera
Assistant Federal Public Defender
Email: Manuel_Acosta@fd.org
Attorney for OMAR AGUIRRE MARCIAL

/s/
PATRICIA J. ACOSTA
Assistant United States Attorney